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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

CENTER FOR BIOLOGICAL
DIVERSITY, et al.,

Plaintiffs,

v.

LT. GEN SCOTT A. SPELLMON, et
al.,

Defendants,

AMERICAN GAS ASSOCIATION,
et al.,

Defendant-Intervenor,

STATE OF MONTANA,

Defendants-Intervenor.

CV 4:21-cv-00047-BMM

**Plaintiffs' Motion to Complete
the Administrative Record**

Plaintiffs respectfully move the Court for an order compelling the completion of the administrative record. As explained in Plaintiffs' brief in support of this motion, Federal Defendants have wrongly omitted from the administrative record documents provided by Plaintiffs as attachments to their comments on the proposed reissuance of the 2021 iteration of the Nationwide Permits. These documents should be included in the record for this matter.

In the alternative, the Court should allow supplementation of the record with these documents, as they are necessary to "determine whether the agency has considered all relevant factors and has explained its decision" and/or to "explain [the] technical terms [and] complex subject matter" underlying Plaintiffs' claims. *Lands Council v. Powell*, 395 F.3d 1019, 1030 (9th Cir. 2005).

Plaintiffs therefore move for the Court to compel the completion of the record with the following documents (Margolis Decl. Exs. A-F):

- The Sierra Club's 2016 comment letter on the proposed reissuance of the NWP's.
- *Schmid & Company, Inc.*, The Effects of Converting Forest or Scrub Wetlands into Herbaceous Wetlands in Pennsylvania: A Report to the Delaware Riverkeeper Network 2014.
- U.S.D.A., Forested Wetlands: Functions, Benefits, and the Use of Best Management Practices.
- Sunday Akinbowale, P.E., Robert Thomas, P.E., SWG'S History/Case Studies of Frac-Out and Other Horizontal Directional Drilling (HDD) Installation Issues (2020).

- Charles Stockton, Stockton Drilling Services, Technical Guide: information and advice for the successful planning and execution of horizontal directional drilling works.
- Meghan Betcher, Alyssa Hanna, Evan Hansen, David Hirschman, Pipeline Impacts to Water Quality: Documented impacts and recommendations for improvements (August 21, 2019).

Pursuant to Local Rule 7.1(c)(1), Plaintiffs' counsel has contacted counsel for the parties regarding the filing of this motion. Federal Defendants will oppose the motion. Defendant-Intervenor American Gas Association takes no position but reserves the right to respond to the motion. The State of Montana did not respond prior to the filing of this motion.

Respectfully submitted,

Dated: January 14, 2022

/s/ Jared Margolis

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/s/ Doug Hayes

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